



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 10, 2020

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0366

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Sustained
# 2	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Sustained
Imposed Discipline		
Termination		

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

It was alleged that the Named Employee made a statement that was unprofessional and that potentially violated the Department's biased policing policy.

SUMMARY OF INVESTIGATION:

OPA received a complaint from three officers – Witness Officer #1 (WO#1), Witness Officer #2 (WO#2), and Witness Officer #3 (WO#3) – concerning a statement made by their co-worker, Named Employee #1 (NE#1). The officers indicated that the statement, which they perceived to be racist and in violation of the Department's biased policing policy, was made on March 31, 2020. Several nights prior, the officers had responded to a hospital for a trespass call. They ended up contacting an individual and removing him from the hospital. This individual was Black and appeared to be of African descent. While the officers were waiting together to pick up a meal on March 31, NE#1 referred to the African individual as "Kunta Kinte."

The Witness Officers all confirmed that NE#1 used this terminology. WO#1 said that NE#1 remarked: "Do you remember Kunta Kinte, the guy from Northwest Hospital from a couple of days ago?" WO#2 also recalled him mentioning "Kunta Kinte" from the hospital. WO#3 remembered NE#1 referring to: "that Kunta Kinte motherfucker." WO#3 immediately told NE#1 that his statement was racist. NE#1 denied this, but WO#3 again said that it was. The Witness Officers recounted that NE#1 then walked away.

The Witness Officers did not immediately report the statement; however, after discussing the matter together, they decided that they were required to do so pursuant to policy. The Witnesses Officers reported to their chain of command and an OPA referral was made. This investigation ensued.



As part of its investigation, OPA interviewed all of the Witness Officers. They confirmed hearing the statement, confronting NE#1 about it contemporaneously, and NE#1 denying that it was racist and walking away. All of the Witness Officers believed that the statement was racist.

OPA also interviewed NE#1. He acknowledged calling the African individual “Kunta Kinte.” He indicated that he did so because the individual was African, and he could not remember the individual’s name. He knew of this term from the movie, “Roots,” which he had seen multiple years prior. NE#1 said that he did not recall denying to the Witness Officers that the statement was racist when they confronted him about it. NE#1 told OPA that, at the time, he did not know that the term was racist and that he was not aware of this until he later spoke to his then-Captain. He later researched the term and determined that it could be construed as racist towards people of African descent.

When asked whether his statement violated the Department’s biased-free policing and professionalism policies, he agreed that it did. He further concurred that, had he used profanity towards the individual, as recalled by WO#3, this also would have been unprofessional.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” (SPD Policy 5.140.) This includes different treatment based on the race of the subject. (*See id.*)

In OPA’s perspective, the evidence is abundantly clear that NE#1’s statement constituted biased policing. The use of “Kunta Kinte” to refer to any Black person, let alone an individual of African descent, is racist and is in direct contravention of policy. While NE#1 admits that he engaged in biased policing, he stated he was not aware that the term was racist at the time he used it. OPA simply does not find this to be credible. NE#1 should have known that referring to an African individual in that manner was impermissible and unacceptable. This is commonly understood and, indeed, was recognized immediately by the Witness Officers.

For these reasons, OPA finds that NE#1’s statement violated the Department’s biased-free policing policy. Accordingly, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001-POL-10.) The policy further states the following: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (*Id.*)



For the same reasons as stated above and as acknowledged by NE#1, OPA finds that his use of the term “Kunta Kinte” was unprofessional. This was particularly exacerbated by NE#1’s use of profanity connected to this term, as described by WO#3. As such, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**